

UNIT 60 REMEDIES (NONCOMMERCIAL)

(Formerly Unit 61)

UNIT CERTIFICATION

Statement of Completion

_____ has satisfactorily completed on-the-job training in the duty or duties of this Unit under the conditions described below and in accordance with the overall standard(s) for this Unit.

Duties

- Part A. Select a formal contract remedy for a performance problem.
- Part B. Prepare a Cure or Show Cause notice.
- Part C. Prepare a liquidated damages notice.
- Part D. Reject nonconforming work.
- Part E. Obtain redress under a warranty clause.
- Part F. Determine the applicable remedy if acceptance was due to fraud, gross mistake, or a latent defect.

Conditions

Given contracts for noncommercial items, the contract file (including price negotiation memoranda and the contractor's proposal), evidence of performance problems, and documentation of informal attempts to resolve the problems. Note: For the purpose of training this Unit, use purchase orders under SAT (which incorporate only clauses required for such orders) and contracts over SAT.

Overall Standard(s)

Select the remedy that will best minimize the impact of the contractor's performance problems on the requirements, delivery schedule, and cost. Obtain reasonable consideration for any relief granted the contractor from the contract's original terms and conditions. Document all decisions and contacts with the contractor sufficient to support the Government's position in the disputes or court proceedings. Correctly follow all prescribed procedures for the remedy.

UNIT 60 REMEDIES (NONCOMMERCIAL)

(Formerly Unit 61)

Evaluator for All Parts

Name

Title

Date

UNIT 60 REMEDIES (NONCOMMERCIAL)

DOCUMENTATION OF OJT ASSIGNMENT(S)	
Description of Assignment:	
Evaluation:	
Completion Date:	

As needed, insert additional pages to record OJT assignments.

UNIT 60 REMEDIES (NONCOMMERCIAL)

Policies

<i>FAR</i>	<i>Agency Suppl.</i>	<i>Subject</i>
11.5		Liquidated damages.
11.7		Variations in quantity—resolution of.
22.302		Liquidated damages for under-payment of overtime.
22.809		Failure to comply with 52.222-26—Equal Opportunity
22.1022 and 1023		Failure to comply with the Service Contract Act.
22.1307		Failure to comply with 52.222-35—Affirmative Action for Special Disabled and Vietnam Era Veterans
22.1407		Failure to comply with 52.222-36—Affirmative Action for Handicapped Workers
23.506		Failure to comply with requirements to maintain a drug-free workplace.
46.407		Nonconforming supplies
46.701, 46.702, and 46.706		Warranties.
49.402-3(b) through 3(d); 49.402- 3(e)(4); 49.607		Delinquency notices.
52.211-11		Liquidated damages — Supplies, Services or R&D.
52.211-16		Variation in Quantity
52.211-17		Delivery of Excess Quantities
52.222-4		Contract work hours and safety standards act—overtime compensation.
52.222-26		Equal Opportunity.
52.222-35		Affirmative action for special disabled and Vietnam era veterans.
52.222-36		Affirmative action for handicapped workers.
52.222-41		Service contract act.
52.246-2 thru 246-8		Inspection and acceptance clauses.
52.246-15		Certificate of conformance.
52.246-17 through 20		Warranty clauses.
52.246-23 through 25		Limitation of liability.
52.249-8 and 249-9		Default clauses.

UNIT 60 REMEDIES (NONCOMMERCIAL)

Other KSA's

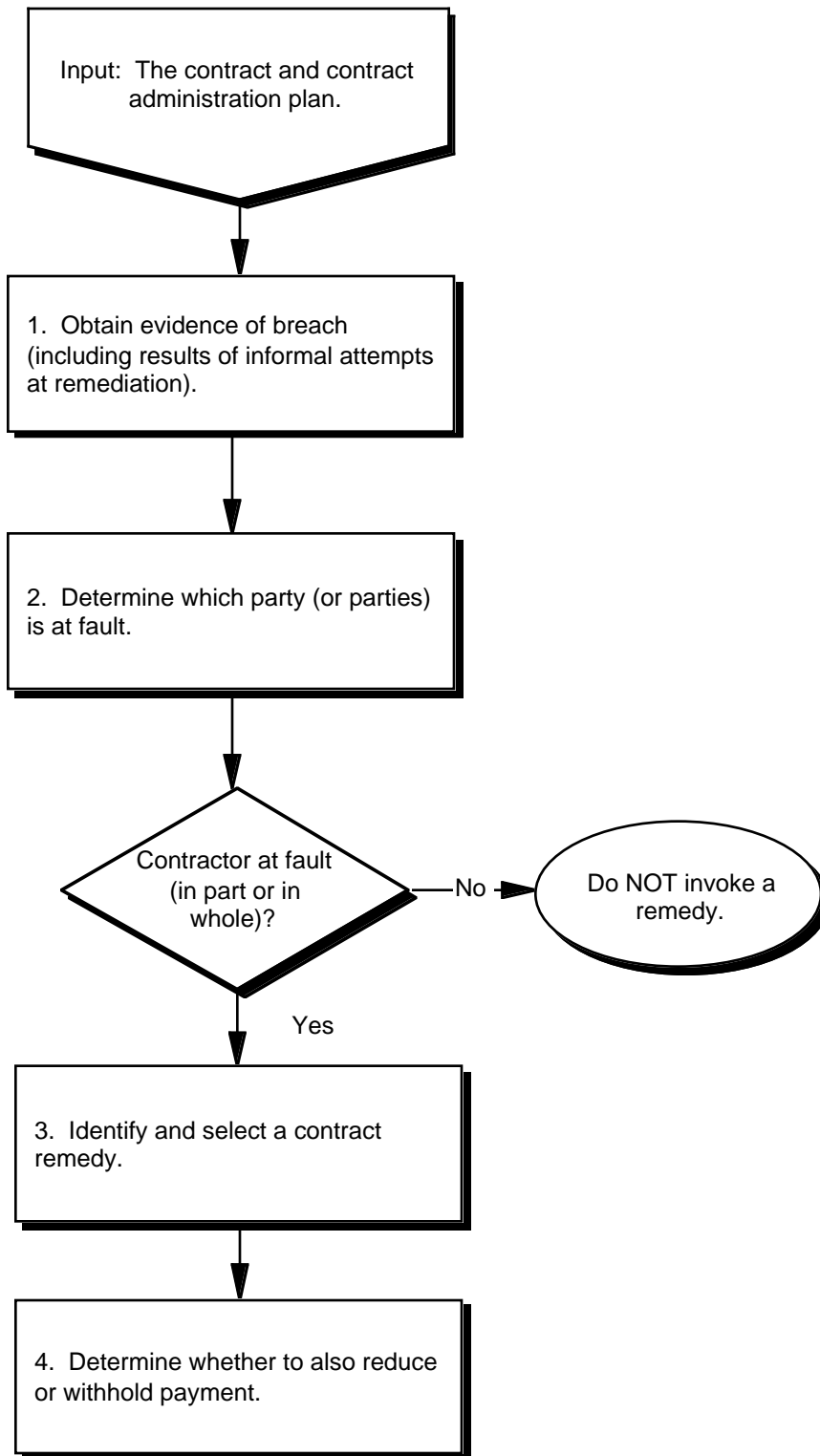
1. Knowledge of:

- The most likely procedural errors and skill at avoiding them.
- "Implied warranties" and the consideration owed the Government for breach of same.
- The purpose of liquidated damages clauses (as motivation, not as penalty).
- The possibility that the Government may lose some or all of remaining rights if it manifests acceptance of nonconforming acts. (It is now unreasonable to enforce these rights due to contractor reliance upon acceptance.)
- The possibility that continuing acceptance of "partial performance" will constructively modify the duty for substantial performance.
- Tests for invoking remedies.
- Examples of actual implied warranties and language that courts have ruled to be "puffing of the wares"

2. Commercial Law

Other Policies and References (Annotate As Necessary):

Selection of Remedies



UNIT 60 REMEDIES (NONCOMMERCIAL)

Part A. Selection of Remedies

Tasks	Related Standards
<p>1. Obtain evidence of any reported failure to perform or other breach (from Unit 56)</p> <ul style="list-style-type: none"> • Anticipated or actual late delivery. • Failure to control costs. • Unsatisfactory performance. 	<p>A1. Collect all related facts, including the contractor's reactions to Government complaints.</p>
<p>2. Determine whether either of the parties (or both) is in noncompliance with contract requirements.</p> <p>Consider both:</p> <ul style="list-style-type: none"> • Contract language. • Extrinsic evidence (e.g., contractor representations regarding the quality, condition, description, or performance potential of the deliverable). 	<p>A2. Correctly apply standards and rules for interpreting contractual language.</p> <p>If at issue, correctly determine whether contractor representations regarding the quality, condition, description, or performance potential of the deliverable were part of the "basis of the bargain", given the:</p> <ul style="list-style-type: none"> • Price negotiation memorandum (what was said and contemplated during the negotiation). • The contractor's proposal, and • The contract itself. <p>Correctly distinguish between express warranties and "mere puffing of the wares."</p> <p>Accurately verify that the Government has carried out its promises, duties, and responsibilities. For example:</p> <ul style="list-style-type: none"> • Furnishing of suitable Government property at the specified time and place. • Implied duty to cooperate and not hinder performance. • Implied duty to disclose information vital for preparation of estimates or contract performance. • Implied duty to provide contractors with factually correct information (e.g., on applicable laws). • Implied warranty of specifications. <p>Analyze potential contractor defenses:</p> <ul style="list-style-type: none"> • Impracticability of performance. • Mutual mistakes. • Unconsonability. <p>Identify and consider all potential Government defenses (e.g., disclaimers and exculpatory clauses; sovereign acts doctrine).</p>

UNIT 60 REMEDIES (NONCOMMERCIAL)

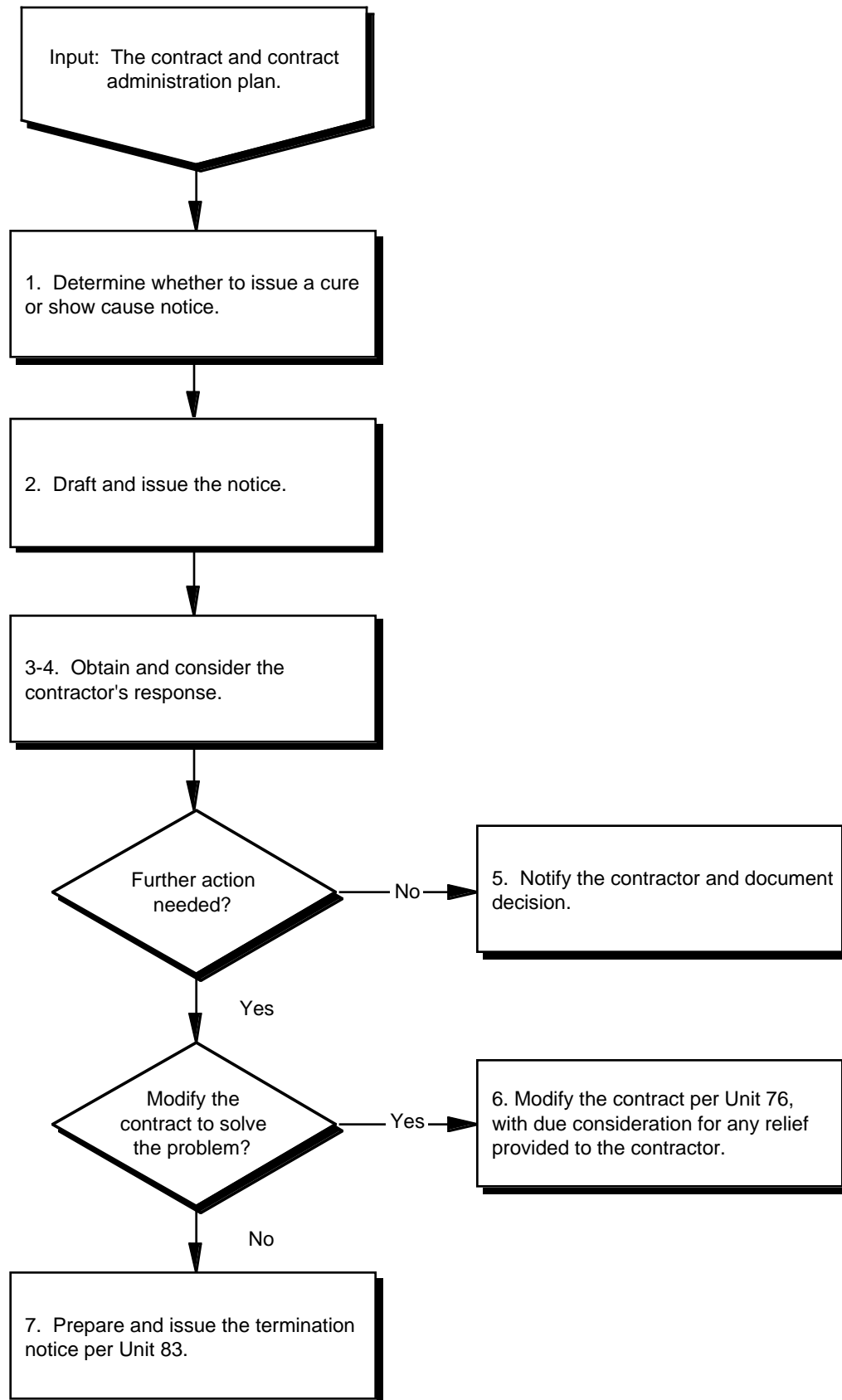
Part A. Selection of Remedies

Tasks

Related Standards

<p>2. Identify and select one or more contractual remedies.</p> <ul style="list-style-type: none"> • Cure or show cause notice. • Liquidated damages. • Rejection of nonconforming supplies or services before acceptance. • Remedies under a Warranty clause. • Remedies under implied warranties (e.g., the warranty of merchantability, or the warranty of fitness for a particular purpose.) • Remedies for fraud, gross mistake, or latent defects. • Any other remedies provided in the specific clause that was breached. • None (e.g., acceptance of minor nonconformance under FAR 46.407(f)). 	<p>A2. Remedy(ies) best match the problem. Only select a cure or show cause notice when there is a reasonable case for default termination (see Unit 83).</p> <p>Consider an implied warranty ONLY IF:</p> <ul style="list-style-type: none"> • The contract does NOT establish finality of acceptance (e.g., because the contracting officer issued a Purchase Order absent inspection and termination for default clauses -- none being required for purchase orders under SAT), AND • The contract does NOT incorporate a warranty clause or a legally binding disclaimer of implied warranties. <p>(For more on implied warranties, see Unit 59).</p>
<p>3. Determine whether to reduce or withhold payment (per Unit 65).</p>	<p>A3. Withhold or reduce payment:</p> <ul style="list-style-type: none"> • As provided in the contract for the remedy being invoked, or • To reflect any downward adjustment in the priced agreed to by the contractor.

CURE AND SHOW CAUSE NOTICES



UNIT 60 REMEDIES (NONCOMMERCIAL)

Part B: Cure and Show Cause Notices

Tasks

Related Standards

1. Determine whether to issue a cure or a show cause notice .	B1. Select the cure notice only if time remaining in the contract delivery schedule is sufficient to permit a realistic "cure" period of 10 days or more. Otherwise, prepare a show cause notice.
2. Draft and issue the cure or show cause notice .	B2. Prepare and issue the notice as provided in FAR 49.402-3 and 49.607. Must "make contractor aware of defects" (cure stops other remedies for 10 days).
3. Obtain contractor's response and determine the validity of any supporting data offered by the contractor (see Unit 56). Examples of possible contractor responses: <ul style="list-style-type: none"> • Offer to "cure" performance. • Offer to provide substantial performance in exchange for relief from some provisions of the contract. • Case for excusable delay. • Agree with the notice's facts and offer no solution. • No response. 	
4. Determine the next step. Alternatives: <ul style="list-style-type: none"> • Take no further action, • Modify the contract, or • Begin proceedings to terminate for cause (see Unit 83). 	B4. Take no further action only if the contractor provides sufficient evidence that performance will be "cured" within the delivery or performance schedule. Modify the contract only if the contractor provides sufficient evidence that the requirement will thereby be substantially met within a period of time acceptable to the requiring activity and with appropriate consideration for any relief from the contract's requirements. Do not agree to change the contract if such changes would substantially increase the Government's costs.

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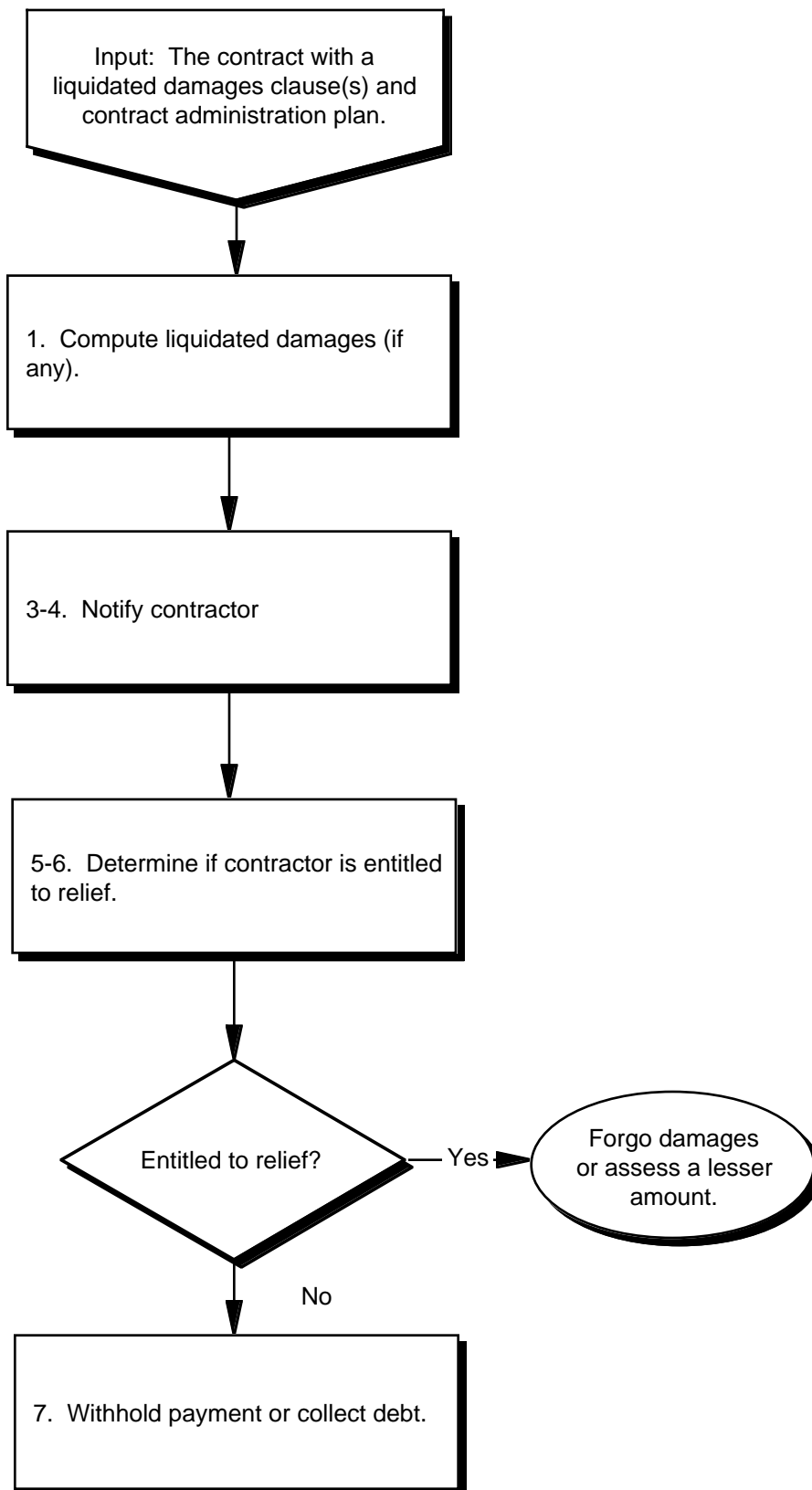
Part B: Cure and Show Cause Notices

Tasks

Related Standards

5. If the decision is to take no further action, provide written notice to the contractor and document a finding of facts.	B5. In the notice, state that: <ul style="list-style-type: none">• The Government assents to the contractor's commitments to "cure" performance.• Assent is predicated on the contractor meeting the specified commitments.• Failure to fulfill the commitments made by the contractor to "cure" performance will restore the Government's right to terminate for cause.
6. If the decision is to modify the contract, implement the modification per Unit 76.	B6. In modifying the contract: <ul style="list-style-type: none">• Establish the Government's position on consideration, a new delivery schedule, and other terms and conditions.• Negotiate sufficient consideration for relief from terms and conditions.• Execute a supplemental agreement.• Document a finding of facts.<ul style="list-style-type: none">- Alternatives considered.- Consideration received and justification for the amount.
7. If the decision is to terminate the contractor for convenience or default , implement the termination per Unit 83.	

Liquidated Damages

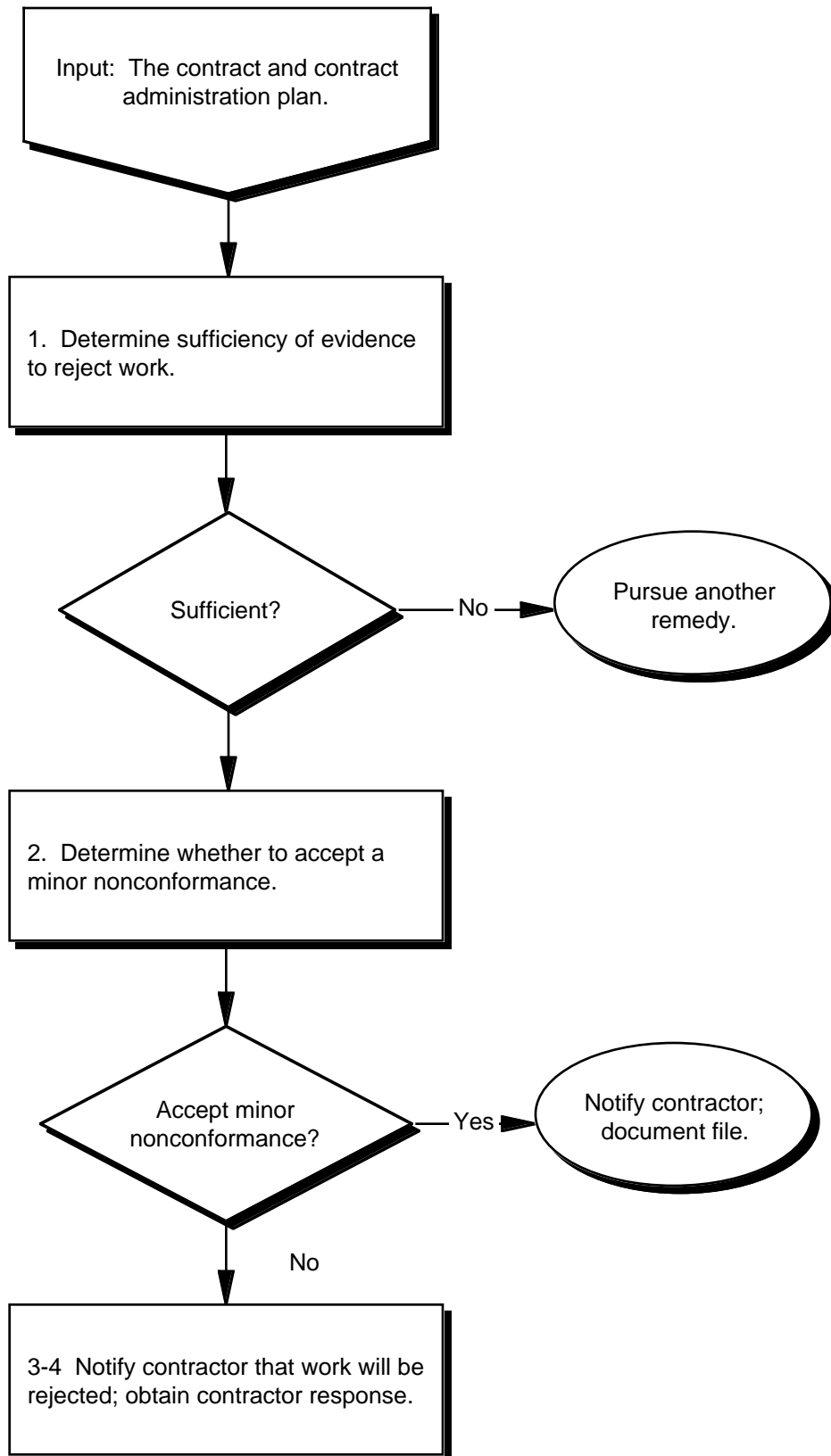


UNIT 60 REMEDIES (NONCOMMERCIAL)

Part C: Liquidated Damages

Tasks	Related Standards
1. Document all evidence pertinent to the clause (per Unit 56).	C1. Correctly identify performance problems covered by a clause that provides for liquidated damages (e.g., 52.211-11; 52.222-4).
2. Compute the dollar amount of liquidated damages.	C2. Accurately calculate the damages per the formula in the applicable clause.
3. Present the case for liquidated damages to the contractor. <ul style="list-style-type: none"> • Cause. • Amount. 	
4. Prepare and issue liquidated damages notice. <ul style="list-style-type: none"> • Cause. • Amount. • What the contractor must do to avoid further invocation of the clause. 	C4. Notice should be complete.
5. Provide the contractor with an opportunity to state the merits of any relief. For example, the contractor might: <ul style="list-style-type: none"> • Contend that delay is excusable (per Unit 57). • Contend impossibility of performance. • Provide evidence of substantial completion. 	C5. The merit of relief is dependent upon a showing of the contractor's ability to "have prevented" the situation. If, under the clause at 52.211-11, strong and persuasive equities favor the contractor, the contracting officer can reduce and/or order remission of liquidated damages (41 USC 256a). Likewise, the Board of Appeals or courts can order such relief if they find in the contractor's favor during the disputes process. Otherwise, only the Comptroller General can provide relief (FAR 11.502(d)). If under the clause at 52.222-4, the head of the agency or a designee may grant relief as provided in FAR 22.302(c).
6. Determine if the contractor is entitled to relief, in part or in whole. If the contractor is entitled to relief, determine whether to: <ul style="list-style-type: none"> • Forgo assessing liquidated damages, or • Assess a reduced amount. 	C6. Document the basis for reducing the amount of liquidated damages and, given the basis, accurately calculate the amount of the reduction.
7. If liquidated damages are assessed in part or in whole, withhold payment and/or collect debt (per Units 65 and 72).	

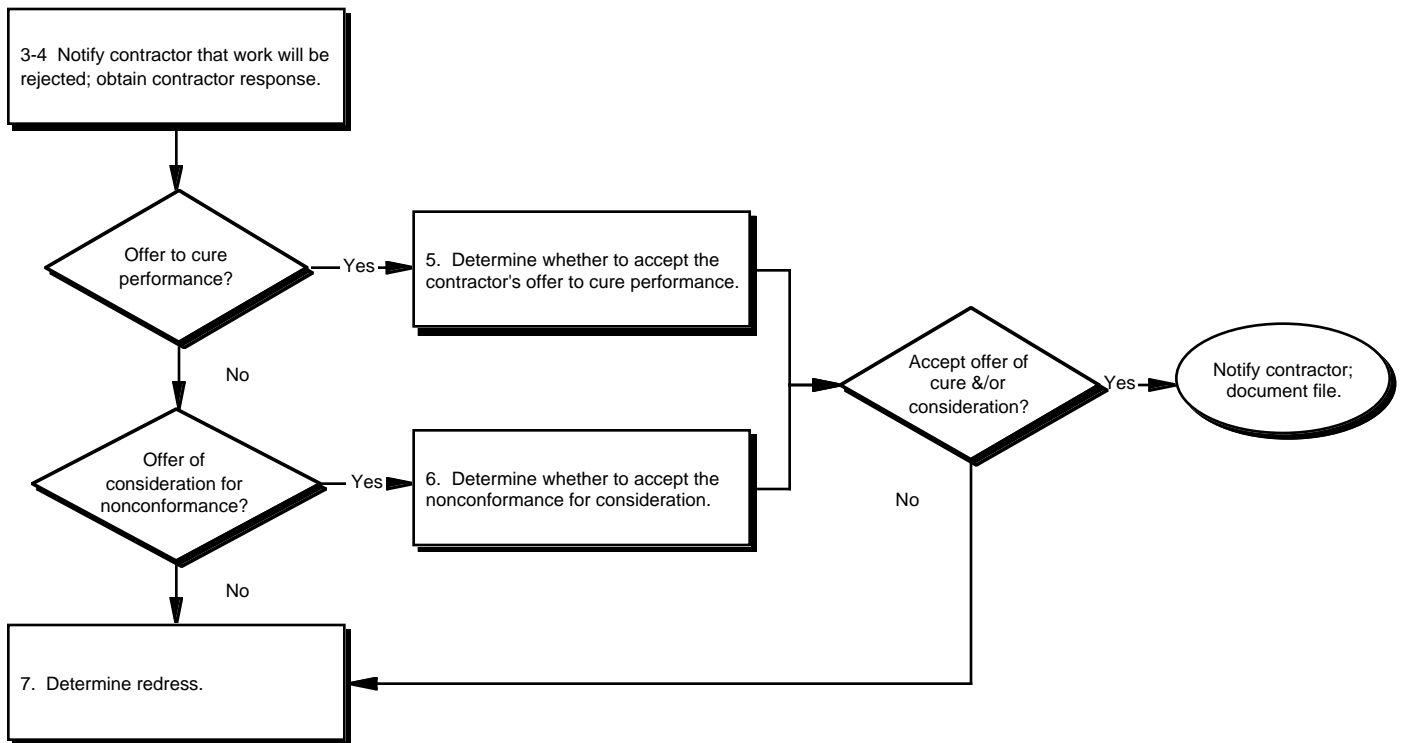
Rejecting Nonconforming Deliverables



(Flowchart continued on next page)

Rejecting Nonconforming Deliverables

(Flowchart continued from prior page)



UNIT 60 REMEDIES (NONCOMMERCIAL)

Part D: Rejecting Nonconforming Deliverables

Tasks

Related Standards

<p>1. Determine sufficiency of evidence to reject the work.</p> <p>Address such issues as:</p> <ul style="list-style-type: none">• Has there been explicit acceptance (but see step 7 below).• Has there been implied acceptance by silence, late rejection, or retention and use of goods?• Is the Government estopped by reason of accepting nonconforming work under a prior contract for the same requirement? <p>(Note: If the Government is at fault, options may include modifying the contract or terminating for convenience.) 12.212-10.¹</p>	<p>D1. Correctly determine whether or not there has already been acceptance (express or implied) and whether the Government still has the right to reject. Correctly apply tests to determine sufficiency of the evidence and ensure that the Government is not at fault.</p>
<p>2. Determine whether to accept a "minor" nonconformance.</p>	<p>D2. If the contractor has shipped an excess quantity, resolve as provided in FAR Subpart 11.7 and related clauses. Correctly determine whether the nonconformance adversely affects the safety, health, reliability, durability, performance, interchangeability of parts or assemblies, weight, or appearance (where a consideration), or any other basic objective of the specification). Accept minor nonconformances without consideration as provided in FAR 46.407(e) and (f).</p>

¹FAR 84-51

UNIT 60 REMEDIES (NONCOMMERCIAL)

Part D: Rejecting Nonconforming Deliverables

Tasks	Related Standards
<p>3. Prepare notice to contractor that work will be rejected.</p> <ul style="list-style-type: none">• Identify reasons for rejection.• Afford the contractor an opportunity to correct or replace the work or reperform the services within the required delivery schedule at no additional cost (unless the contract specifies otherwise) to the Government.• Provide time (usually 10 days) to reply.	<p>D3. Notice should meet the test of FAR 46.407(g). Accurately determine whether the Government's interest would be better served by "repair in place" or "removal of the supplies for repairs". Provide reasonable time to correct deficiencies. If the correction or replacement or reperformance is accomplished within the required delivery schedule, do not require consideration from the contractor other than charges for the cost of reinspection and retesting per 52.246-2(e)(2).</p> <p>Note: If you do not give reasons for rejection and there is time to correct the defects within the contract delivery schedule, rejection and a subsequent default termination are improper.</p>
<p>4. Obtain contractor's reply.</p> <p>Potential responses:</p> <ul style="list-style-type: none">• Offer to "cure performance" (i.e., correct the work) and/or provide a downward price adjustment.• Proposal that the Government accept the nonconforming supplies or services for consideration.• Refusal to correct work or offer consideration.• No reply.	

UNIT 60 REMEDIES (NONCOMMERCIAL)

Part D: Rejecting Nonconforming Deliverables

Tasks

Related Standards

<p>5. Determine whether to accept the contractor's offer to cure performance.</p> <p>Accept such an offer at no change in contract price if performance can reasonably be cured within the contract's delivery or performance schedule.</p> <p>If a cure is not possible within the delivery or performance schedule, determine whether to extend the delivery or performance schedule.</p> <p>If the decision is to extend the delivery or performance schedule, correctly determine:</p> <ul style="list-style-type: none"> • Reasonableness of the proposed extension. • Whether to require consideration from the contractor and the amount of such consideration. If the contractor had reasonable grounds to believe that the deliverable was acceptable, do not require consideration for a reasonable extension of the delivery or performance schedule. Otherwise, obtain consideration. 	<p>D5. Accurately forecast whether a cure is probable within the delivery or performance schedule. Accurately identify and consider risks to the Government of extending the delivery or performance schedule. Develop a reasonable position on the length of any contract extension and consideration (if any) for extending the schedule.</p>
<p>6. Determine whether to accept nonconforming supplies or services given a contractor offer of consideration.</p> <p>Based the decision on:</p> <ul style="list-style-type: none"> • Advice of the technical activity that the deliverable is safe to use and will perform its intended purpose. • Information regarding the nature and extent of the non-conformance. • A request from the contractor for acceptance of the supplies or services (if feasible) • A recommendation for acceptance or rejection, with supporting rationale, and. • The contract adjustment considered appropriate, including any adjustment offered by the contractor. 	<p>D6. Only accept nonconforming supplies when in the Government's interest. Before acceptance, obtain the concurrence of the requiring activity and, where health factors are involved, of the responsible health official of the agency. May accept non-conforming supplies or services without consideration if the contractor is obliged by the terms of a written warranty to make any necessary repairs or corrections at no cost to the Government.</p>

UNIT 60 REMEDIES (NONCOMMERCIAL)

Part D: Rejecting Nonconforming Deliverables

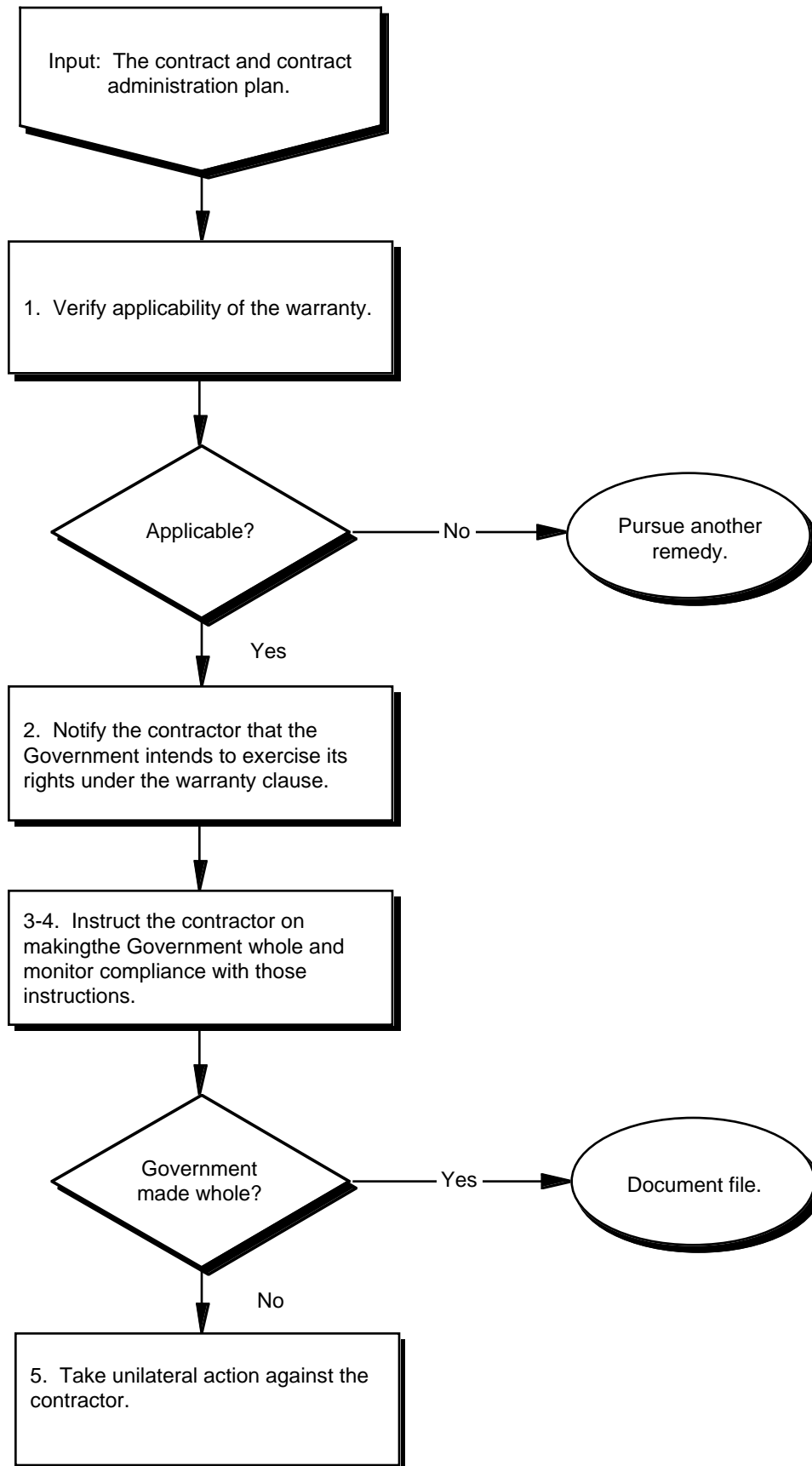
Tasks

Related Standards

<p>7. If the contractor refuses to correct the work and offered consideration (if any) is not acceptable, determine the remedy.</p> <p>Options:</p> <ul style="list-style-type: none">• Issue rejection and show cause letter, and/or• Arrange for correction of the defects at the contractor's expense.	<p>D7. Only correct work at the contractor's expense if the contractor has first been given a chance to correct the work and failed to do so in a reasonable time. This is a condition precedent to his duty to pay for the Government's correction costs.</p> <p>If the contractor makes a persuasive case that there has been acceptance, or that the work is acceptable under the contract's terms and conditions, do not apply these remedies.</p>
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Written Warranty

Implied Warranty

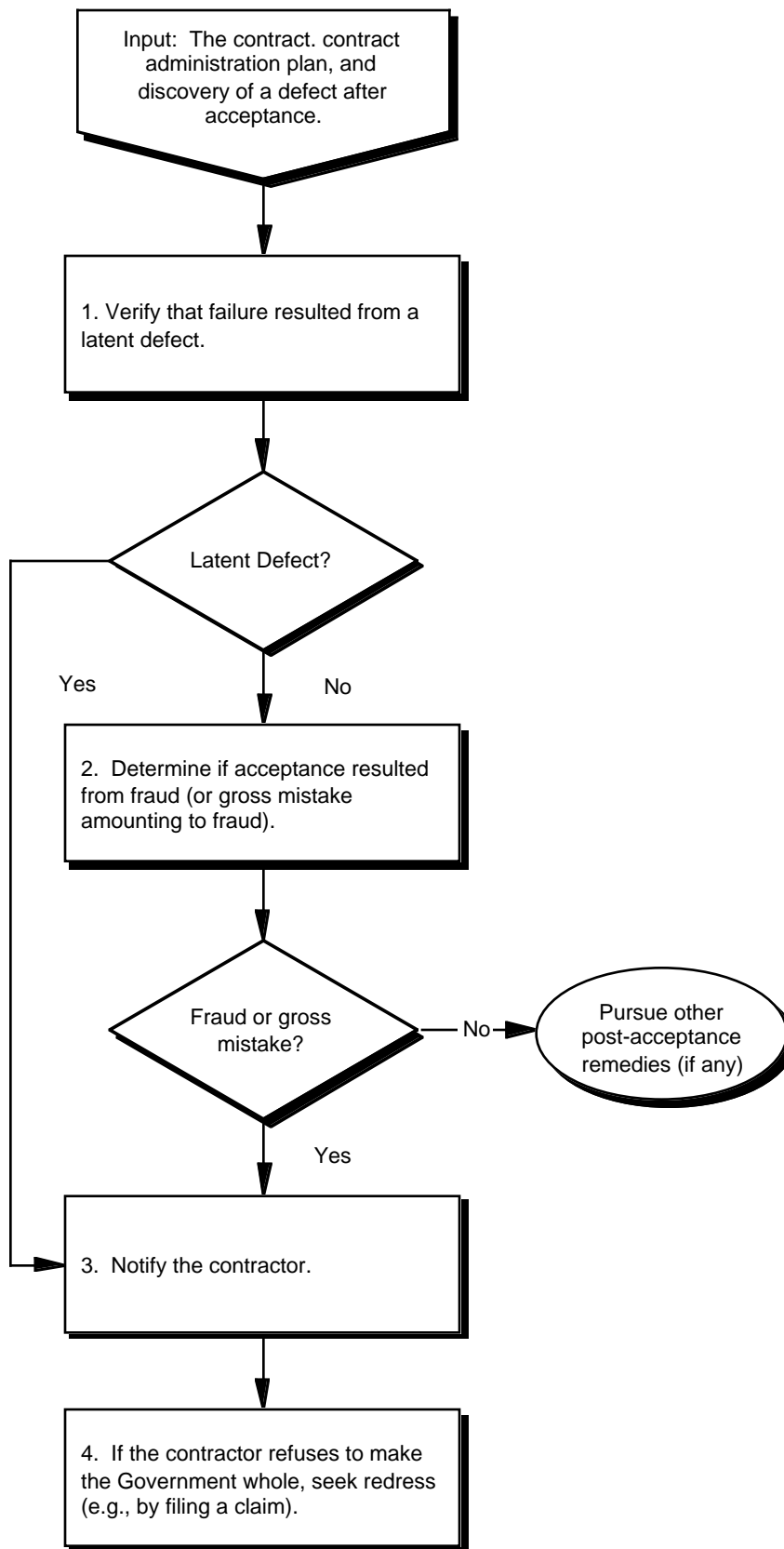


UNIT 60 REMEDIES (NONCOMMERCIAL)

Part E: Written Warranty

Tasks	Related Standards
<p>1. Verify that the warranty clause applies.</p> <p>Base the verification upon the:</p> <ul style="list-style-type: none"> • Terms and conditions of the clause (e.g., duration of the warranty). • Government's obligations under the clause (have they been met?). • Factual basis for applying the warranty (do the facts support the Government's case for invoking the warranty?). 	
<p>2. Notify the contractor that the Government intends to exercise its rights under the warranty.</p> <ul style="list-style-type: none"> • Prepare and send written notification of breach. • Obtain the contractor's position and supporting data. • Reach agreement on whether and how the Government is to be made whole. • Document results of contact. 	<p>E2. Provide written notice within the time constraints of the warranty clause. Accurately interpret the clause.</p>
<p>3. Formally instruct the contractor on how the Government is to be made whole.</p> <p>Alternatives:</p> <ul style="list-style-type: none"> • Direction to repair, replace, or reperform (with further direction on whether the Government or contractor personnel will be responsible for identifying additional nonconforming deliverables for rework). • Retain supplies and unilaterally reduce the price. 	<p>E3. Provide written notice to the contractor with a reasonable period. Select the best alternative for making the Government whole available under the warranty clause, given the circumstances.</p>
<p>4. Monitor contractor compliance with instructions for making the Government whole.</p>	<p>E4. Ensure that the Government receives the full measure of relief provided by the warranty terms and conditions.</p>
<p>5. Take unilateral action against the contractor.</p> <ul style="list-style-type: none"> • If allowed by the warranty clause, reprocure and charge back against the contractor (e.g., by offset). • Otherwise, file a claim per Unit 81. 	<p>E5. If the contract has already closed out, file a claim as prescribed in Unit 81.</p>

Fraud, Gross Mistake, or Latent Defect



UNIT 60 REMEDIES (NONCOMMERCIAL)

Part G: Fraud, Gross Mistake, or Latent Defect

Tasks	Related Standards
<p>1. Verify that the failure to perform has been caused by a latent defect.</p> <ul style="list-style-type: none"> Identify the contractor's liability for the defect. Determine that the Government has fulfilled its obligations for inspection and acceptance. Identify what tests could have revealed the defect at time of acceptance and whether such tests have been reasonable under the circumstances. 	<p>G1. The Government did not know or did not have reason to know of the defect's existence at time of acceptance. Tests rigorous enough to have revealed the defect would not have been cost-effective, and the contractor did not propose such testing in the initial negotiations of the contract.</p>
<p>2. Determine if the Government's acceptance had been induced by suspected fraud (or gross mistake amounting to fraud).</p> <ul style="list-style-type: none"> Prepare a finding of facts that proves that acceptance was induced by the Government's reliance on all of the following: <ul style="list-style-type: none"> A misrepresentation of fact (actual or implied) or concealment of a material fact. Made with knowledge of its falsity or in reckless or wanton disregard of the facts. With intent to mislead Government into relying on the misrepresentation. As a consequence of which the Government has suffered injury. Report evidence of potential fraud. 	<p>G2. Base the Government's case on gross mistake amounting to fraud when intent to mislead cannot be established but all other factors apply.</p>
<p>3. Contact the contractor.</p> <ul style="list-style-type: none"> Obtain the contractor's position and supporting data. Request a proposal to repair or replace the deliverable (or reperform the service) and/or adjust prices downward. Prepare the Government's position. Negotiate a new delivery schedule and/or consideration. Document results of negotiations. 	
<p>4. If contractor refuses to make the Government whole, determine the remedy.</p> <p>Options:</p> <ul style="list-style-type: none"> Determine the downward price adjustment and collect from the contractor (e.g., by filing a claim), Correct or replace nonconforming deliverables at the contractor's expense, or Obtain reperformance of the service from another source and charge the contractor for the cost incurred by the Government thereby. 	

**UNIT 60 REMEDIES (NONCOMMERCIAL CONTRACTS —APPENDIX I
DECISION TABLE FOR SELECTING A CONTRACT REMEDY**

PROBLEM	OPTIONS	COMMENT
LATE DELIVERY Note: When the contracting officer has determined that the deliverable has been or will be delivered late and that the delay is non-excusable.	1. Reschedule delivery date in exchange for consideration.	Appropriate when (1) no liquidated damages clause was included in the original contract, (2) there is a reasonably probability of delivery by the new date, and (3) the requiring activity can live with the new date.
	2. Reduce or suspend progress, advance, or performance based payments (e.g., FAR 52.232-16(c)(2) or FAR 52.232-12(k)).	Appropriate when (1) the Government is financing the work and (2) performance of the contract is endangered by the contractor's failure to make progress.
	2. Accept late delivery and impose liquidated damages.	Appropriate when (1) the contract provides for liquidated damages and (2) there is a reasonably probability of delivery by a date that the requiring activity can tolerate.
	3. Send a cure notice (10 days or more prior to the contract's delivery date) or a show cause notice (immediately upon expiration of the delivery period).	When there is little probability of delivery by a date that the requiring activity can tolerate and/or the contractor has not offered adequate consideration.
THE DELIVERABLE HAS NOT BEEN ACCEPTED AND DOES NOT CONFORM TO THE CONTRACT'S REQUIREMENTS Note: When the contracting officer has determined that the deliverable has not been implicitly or explicitly accepted and does not conform to the contract's requirement.	1. Accept the deliverable without consideration.	When the nonconformance is minor and obtaining consideration is not in the Government's interests (per FAR 46.407(f)).
	2. Accept the deliverable in exchange for consideration.	When the requiring activity can tolerate non-conformance (per FAR 46.407(c)).
	3. Accept the deliverable and invoke a warranty to have the deliverable brought up to specification after acceptance.	When there is an applicable warranty and immediate acceptance will benefit the requiring activity.
	4. Reject the deliverable and obtain correction or replacement at no cost to the Government. Tell the payment office to withhold payment until an acceptable deliverable has been furnished.	When there is a reasonable expectation that a satisfactory replacement will be provided by the delivery date in the contract, or, for consideration, within a reasonable time thereafter (see option 1 under LATE DELIVERY).
	5. Reject the deliverable and send a cure or show cause notice.	When there is little expectation of receiving an acceptable product within a reasonable time.

**UNIT 60 REMEDIES (NONCOMMERCIAL CONTRACTS —APPENDIX I
DECISION TABLE FOR SELECTING A CONTRACT REMEDY**

PROBLEM	OPTIONS	COMMENT
<p>THE DELIVERABLE HAS BEEN ACCEPTED BUT DOES NOT CONFORM TO THE CONTRACT'S REQUIREMENTS</p> <p>Note: When the contracting officer has determined that the Government has a reasonably strong case based on the terms and conditions of the contract (per Unit 58).</p>	1. Invoke an express warranty.	If an express warranty applies.
	2. Invoke an implied warranty.	If an implied warranty applies (i.e., because the contract does not establish “finality of acceptance”).
	3. Demand that the deliverable be replaced or corrected and/or that the price be adjusted downward.	If there was a latent defect or acceptance was based on fraud or gross mistake.
<p>OTHER BREACHES</p> <p>Note: When the contracting officer has exhausted all efforts at informal resolution of the problem.</p>	1. Invoke whatever remedy (if any) is established in the applicable clause.	<p>Examples:</p> <ul style="list-style-type: none"> • Liquidated damages per FAR 52.219-16 for failing to comply with the subcontracting plan. • Liquidated damages and withholding for unpaid wages under FAR 52.222-4, “Contracting Work Hours and Safety Standards Act—Overtime Compensation.” • Cancellation, suspension, or termination of the contract under FAR 52.222-26, “Equal Opportunity.” • Withholding of payments and termination under FAR 52.222-41, “Service Contract Act of 1965, As Amended.” • Suspension of contract payments, termination for default, and suspension or debarment under FAR 52.223-6, “Drug-Free Workplace”.
	2. Reduce or suspend progress, advance, or performance based payments (e.g., FAR 52.232-16(c)(2) or FAR 52.232-12(k)).	
	3. Send a cure notice (10 days or more prior to the contract's delivery date).	When the breach is of sufficient magnitude to warrant termination for default.